

1 RENE L. VALLADARES  
Federal Public Defender  
2 Nevada State Bar No. 11479  
JASON F. CARR  
3 Assistant Federal Public Defender  
4 Nevada State Bar No. 006587  
411 E. Bonneville, Ste. 250  
5 Las Vegas, Nevada 89101  
(702) 388-6577  
6 (702) 388-5819 (fax)  
7 Jason\_Carr@fd.org

8 Attorney for Petitioner Gallegos

9 UNITED STATES DISTRICT COURT  
10 DISTRICT OF NEVADA  
11

12 FERNANDO GALLEGOS,

13 Petitioner,

14 v.

15 ISIDRO BACA, et al.,

16 Respondents.  
17

Case No. 3:15-cv-00254-RCJ-VPC

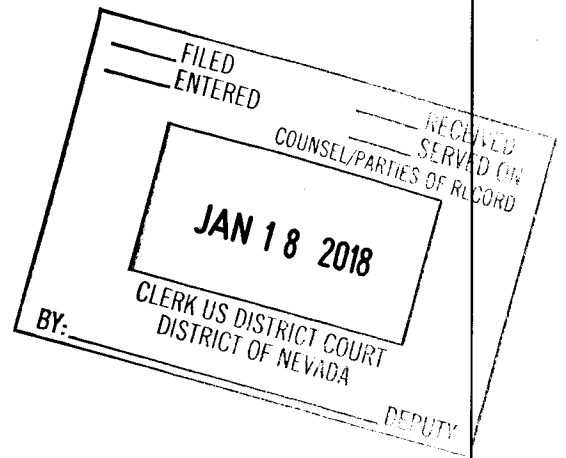
**UNOPPOSED MOTION EXTENSION  
OF TIME TO FILE OPPOSITION TO  
SECOND MOTION TO DISMISS**

**(First Request)**

18 COMES NOW the Petitioner, Fernando Gallegos, by and through counsel of  
19 record, Jason F. Carr, hereby files this request extension of time to file his Opposition  
20 to Respondent's Second Motion to Dismiss Petition for Writ of Habeas Corpus.  
21 Petitioner requests that this Court grant him an extension of time of forty-eight (48)  
22 days to file the Opposition making the pleading due on Thursday, September 5, 2017.

23 This motion is based upon the attached Points and Authorities and all  
24 pleadings and papers on file herein.

25 Counsel for Gallegos apologizes for filing this Motion for Extension one-day  
26 late. Counsel ran into a filing problem after spending the afternoon at Nevada  
Correctional Center High Desert for Parole Board proceedings.



POINTS AND AUTHORITIES

1. On February 16, 2017, this Court issued an Order granting Petitioner's Motion for Leave to File a Third Amended Petition. (ECF No. 39.) On May 4, 2017, Petitioner filed his Third Amended Petition. (ECF No. 42). Respondent's filed their Second Motion to Dismiss on June, 19, 2017. (ECF No. 43). Petitioner's Opposition is currently due July 19, 2017. This is a first request for an extension of time.

2. Counsel's recent and forthcoming schedule interferes with his ability to adequately prepare an Opposition. The following conflicting deadlines illustrate counsel's need for an extension: Reply Brief filed May 10, 2017, in *Shropshire v. Baca*, CA number 16-15214; Oral Argument on May 15, 2017, *Lewis v. Nevada*, CA number 15-16797; Reply Brief filed May 15, 2017, in *Davis v. Warden*, CA number 15-17083; Reply to Answer in federal district court on May 18, 2017, in *Ramirez v. Baker*, case number 3:13-cv-00025-MMD-VPC; Opening Brief filed May 23, 2017, in *Newberg v. Palmer*, CA number 16-171-09; Reply to Answer in federal district court on June 5, 2017, in *Fritsche v. LeGrand*, case number 3:15-cv-00425-MMD-WGC; Petition for Rehearing on June 7, 2017, in *USA v. Pollard*, CA number 15-10246; Oral Argument on June 12, 2017, in *Pattison v. Morrow*, CA number 15-16455; and an Opposition to Motion to Dismiss in federal district court in *Irvine v. Baker*, case number 3:15-cv-00487-MMD-WGC. Further, counsel must travel to Reno, Nevada on July 5, 2017 for multiple days to attend state court hearings, investigation, and to visit clients housed in a Nevada Department of Corrections facility in Lovelock, Nevada.

3. On July 19, 2017, counsel for Petitioner contacted Deputy Attorney General Heidi Stern who is covering for primary counsel Matthew S. Johnson while his is on paternity leave. Ms. Stern does not object to this request for a continuance, however the State requests that counsel for habeas petitioners make clear that nothing about the decision not to oppose Petitioner's extension request signifies an

1 implied finding of a basis for tolling any applicable period of limitations or the waiver  
2 of any other procedural defense. Petitioner at all times remains responsible for  
3 calculating any limitations periods and understands that, in granting an extension  
4 request, the Court makes no finding or representation that the petition, any  
5 amendments thereto, and/or any claims contained therein are not subject to dismissal  
6 as untimely.

7 4. This motion is not filed for the purpose of delay, but in the interests of  
8 justice, as well as in the interest of Mr. Gallegos. Counsel respectfully requests that  
9 this Court grant the request for an extension of time to file the Opposition to  
10 September 5, 2017, in order for the effective and thorough representation of Mr.  
11 Gallegos in his federal habeas action.

12 DATED this 19th day of July, 2017.

13 Respectfully submitted,  
14 RENE L. VALLADARES  
15 Federal Public Defender

16 /s/ Jason F. Carr

17 JASON F. CARR  
18 Assistant Federal Public Defender

19 It is so Ordered:

20  
21  
22  
23   
24 ROBERT C. JONES  
25 United States District Judge

26 Dated: 1-18-2018